

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARY G. DOEBLER,

Plaintiff,

v.

Case. No. 12-11795
Hon. Lawrence P. Zatkoff

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

/

OPINION AND ORDER

AT A SESSION of said Court, held in the United States Courthouse,
in the City of Port Huron, State of Michigan, on March 24, 2014

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

I. INTRODUCTION

Plaintiff filed this action challenging Defendant's denial of Plaintiff's claims for a period of disability, Disability Insurance Benefits, and Supplemental Security Income benefits. This matter currently comes before the Court on the Magistrate Judge's Report and Recommendation [dkt 23], in which the Magistrate Judge recommends that Plaintiff's Motion for Summary Judgment [dkt 18] be denied, and Defendant's Motion for Summary Judgment [dkt 22] be granted. Plaintiff filed an objection to the Magistrate Judge's Report and Recommendation [dkt 28] and Defendant filed a response [dkt 29].

The Court has thoroughly reviewed the court file, the respective motions, the Report and Recommendation, Plaintiff's objections and Defendant's response. For the reasons discussed

below, the Court ADOPTS the Magistrate Judge's Report and Recommendation. Plaintiff's Motion for Summary Judgment is DENIED and Defendant's Motion for Summary Judgment is GRANTED. The Court will, however, briefly address Plaintiff's objections.

II. LEGAL STANDARD

The Court examines an ALJ's decision to determine if the correct legal standard was used and if the findings are supported by substantial evidence. *Key v. Callahan*, 109 F.3d 270, 273 (6th Cir. 1997). The ALJ's decision "is not subject to reversal, even if there is substantial evidence in the record that would have supported an opposite conclusion, so long as substantial evidence supports the conclusion reached by the ALJ." *Id.* Substantial evidence is "more than a scintilla of evidence but less than a preponderance and is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Brainard v. Sec'y of Health & Human Servs.*, 889 F.2d 679, 681 (6th Cir. 1989).

In determining whether the Commissioner's decision is supported by substantial evidence, the Court must examine the administrative record as a whole. *Cutlip v. Sec'y of Health & Human Servs.*, 25 F.3d 284, 286 (6th Cir. 1994) (per curiam). The Court may not try the case de novo, resolve conflicts in evidence, or decide questions of credibility. *Bass v. McMahon*, 499 F.3d 506, 509 (6th Cir. 2007). If the Commissioner's decision was supported by substantial evidence and decided under the correct legal standard, the Court must affirm the Commissioner's decision even if it may decide the case differently, and even if substantial evidence also supports the claimant's position. *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986) (en banc).

III. ANALYSIS

Plaintiff raises six objections to the Magistrate Judge's Report and Recommendation. The first objection alleges the Magistrate Judge failed to find the ALJ erred in determining

several of Plaintiff's various medical conditions were "non-severe." Plaintiff's next two objections allege the ALJ failed to consider how Plaintiff's obesity could possibly affect her physical and mental conditions. Plaintiff's fourth objection protests the Magistrate Judge's refusal to find the ALJ erred in deciding not to give greater weight to the opinion of Plaintiff's treating psychiatrist. Plaintiff's fifth objection concerns an alleged error in the assessment of Plaintiff's own credibility, while Plaintiff's final objection focuses on the hypothetical question posed by the ALJ to the vocational expert.

As Defendant correctly points out, nearly all of Plaintiff's "objections" to the Magistrate Judge's Report and Recommendation are contained in her original Motion for Summary Judgment. Indeed, a cursory review of Plaintiff's Motion for Summary Judgment and Plaintiff's current objections indicates vast amounts of text were simply copied from the former and reused in the latter. Further, the Magistrate Judge's Report and Recommendation specifically addresses five of the six objections raised, providing what the Court finds to be a thorough analysis indicating the ALJ used the correct legal standard and relied upon substantial evidence in coming to his final determination.

The only objection Plaintiff now raises that was not specifically addressed in the Magistrate Judge's Report and Recommendation alleges the ALJ erred in not reviewing Plaintiff's respiratory issues in conjunction with her obesity. The Court finds that this "new" objection is simply a combination of her first two objections.¹ As Plaintiff provides no case law or evidence—indeed, no argument at all—to support Plaintiff's "combined" objection, the Court finds this final objection without merit. It is clear to the Court that the Magistrate Judge did not ignore any of these varied objections in crafting his Report and Recommendation, that the ALJ

¹ In the two combined objections, Plaintiff asserts the ALJ failed to: 1) find that Plaintiff's respiratory infections were non-severe and 2) consider the extent of Plaintiff's obesity

used the correct legal standard in coming to his decision, and that substantial evidence exists in the record to support the ALJ's ruling.

IV. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that the Court ADOPTS the Magistrate Judge's Report and Recommendation [dkt 23]. Plaintiff's Motion for Summary Judgment is DENIED [dkt 18] and Defendant's Motion for Summary Judgment is GRANTED [dkt 22].

IT IS SO ORDERED.

Date: March 24, 2014

S/Lawrence P. Zatkoff
HON. LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE